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THE PRESIDENT HAS SEEN

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THE WHITE HOUSE

WASHINGTON

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May 17, 1997

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

1. Housing Bill: The House passed, by a vote 293 to 132, a bill to reform the system of public housing, most notably by reducing the percentage of extremely poor tenants in public housing and making room for more of the working poor. The Administration objected to the bill, principally for its failure to target the most needy individuals. The Senate bill is far closer to our own proposal, and we will work hard there to incorporate our targeting provisions. Some Democrats in the House also objected to a provision in the bill requiring unemployed tenants to perform eight hours of community service each month, but the Administration has long supported this proposal. Perhaps the best part of the bill is a provision that prevents rent from rising automatically with income, which should remove a disincentive to getting off welfare. The bill also includes \$290 million in grant money to fight crime in public housing.

2. Welfare -- Fair Labor Standards Act: We announced yesterday that the Fair Labor Standards Act would apply to welfare recipients in workfare programs in the same way it applies to all other employees. To try to alleviate state concerns, we made clear that we would take administrative action to ensure that food stamps, as well as cash assistance, would count toward the minimum wage. We also indicated, consistent with the position we have taken since 1994, that we disfavor counting payments to workfare participants as wages for FICA and EITC purposes. Notwithstanding these efforts to ease state concerns, our decision immediately came under attack from Republican -- and also some Democratic -- governors. In addition, Clay Shaw sent a letter to you yesterday calling the decision "a serious setback for state efforts to move recipients into jobs" and offering his assistance "if your Administration thinks your hands are tied by the current labor laws and wants Congress to fix them." We are meeting Monday with agency representatives and also with labor union leaders to devise the best strategy for countering attacks on our decision.

3. Welfare -- Privatization: HHS and USDA formally notified Texas that it could not privatize any aspect of the eligibility process for Medicaid and Food Stamps. Erskine will have one meeting next week with members of the Texas delegation who oppose the decision -- and another with members who support it. Meanwhile, the Texas legislature is considering new legislation on the issue. One bill, passed by the House a week ago, allows private companies only to design and develop computer systems, in line with the Administration's policy. Another bill, supported by Governor Bush and reported out of a Senate Committee, also authorizes the

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privatization of eligibility functions in the event the federal government ever allows it. In negotiating with Texas, HHS and USDA representatives raised the possibility of a sub-state, time-limited demonstration project involving privatization of eligibility functions, but Texas was not interested in this approach. The Administration will soon have to decide whether to grant a request from Wisconsin for just this kind of limited, county-based privatization project.

4. Welfare -- GAO Report on Benefit Terminations: A new GAO study, requested by Sen. Moynihan, examines waivers that permitted 33 states to sanction AFDC recipients by terminating benefits, usually for refusing to comply with work requirements. The GAO found that 14 of the 33 states did not terminate any benefits, while another 7 terminated benefits in fewer than 100 cases. The report studied in depth the three states with the most terminations: Iowa, Massachusetts, and Wisconsin, which had 13,000 of the 18,000 terminations nationwide. All three have had above-average caseload reductions (23% in Iowa, 37% in Massachusetts, and 49% in Wisconsin since 1993). The terminations do not directly account for these caseload reductions: each of the three states terminated less than one percent of its caseload. The termination policy, however, may well contribute to caseload reduction in a more indirect fashion; each of these states reported anecdotal evidence that the policy encourages people to move toward work or discourages them from applying for benefits in the first place.

The GAO report did not make many findings about what happens to recipients once they lose benefits. The report did note, however, that approximately one-third of those losing benefits later regained them after agreeing to comply with state requirements. In addition, the report found that although the waivers permitted those losing AFDC to keep food stamps and Medicaid, the actual receipt of these benefits fell significantly, presumably because families did not take the necessary steps to keep these benefits after losing AFDC.

5. Children's Health: We are working with HHS to complete a report that you will release at a radio address on children's health, currently planned for May 24. The report discusses the reasons that children lack coverage and underscores the health and developmental problems that uninsured children suffer. The report concludes that we can build on the success of Medicaid and state programs to expand health insurance coverage to millions more children. We are also looking for dates for either you or the First Lady to participate in an announcement by Kaiser Permanente that it will spend \$100 million over the next five years to insure approximately 50,000 children.

6. Cloning: The National Bioethics Advisory Commission (NBAC) will hold its final public meeting on human cloning today and will present you with its report the week of June 9. The report will find that human cloning violates ethical standards (focusing on the risks it poses to developing embryos) and that a ban on human cloning will not impede scientific progress. At the least, NBAC will call for a continued voluntary moratorium on human cloning. In all probability, the Commission will go further and call for legislation prohibiting human cloning. The legislative recommendation has proved controversial because some commissioners fear that Congress will draft overbroad legislation and/or refuse to amend the legislation in any way as

science evolves. We expect NBAC to resolve this issue sometime next week, perhaps by recommending a specific, narrowly tailored prohibition with a sunset provision.

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7. Education Standards and Testing: Rep. Goodling offered an amendment to the flood relief bill that would have prohibited the Education Department from spending any funds to develop national tests, but the House ruled the amendment out of order. In the course of discussing this amendment with Goodling and others, we refused to commit the Administration to seeking specific congressional authorization before implementing the tests. We believe, however, that we should try to reach an accommodation with Congress on this issue in the near future. Although we are still discussing options, we think the best idea may be to propose as part of the reauthorization of NAEP that the National Assessment Governing Board assume responsibility for the individual tests, much as the Board now oversees the statewide NAEP examinations.

8. Secret Service Uniformed Division Unionization: You recently asked about the response of other agencies to the Treasury Department's argument that allowing Secret Service Uniformed Division employees to unionize would place the government on a slippery slope to eliminating Executive Order 12171. We are attaching a copy of that E.O., which lists the units in the Departments of Treasury, Defense, Justice, Transportation, and Energy currently prevented from unionizing for security reasons. When we asked the other departments about exempting Uniformed Division employees, (1) DOE said it had no objections, even though it is facing a similar request from its Nuclear Materials Couriers, because it can distinguish these employees from Uniformed Division personnel; (2) DOJ expressed no view, stating that employees of its covered units (the DEA and Marshal's Service) probably would not seek unionization; (3) DOD also expressed no view, stating that its covered units are different enough from the Uniformed Division to prevent them from "being pulled in;" and (4) DOT, which some years ago faced a unionization request from its Federal Air Marshals, expressed a "mild concern" of a "ripple effect," but stressed that this concern was indeed "mild."

Codification of Presidential Proclamations and Executive Orders
 authority delegated under this Order to the Director of the Office of Personnel Management.

Executive Order 12154—Levels IV and V of the Executive Schedule

SOURCE: The provisions of Executive Order 12154 of Sept. 4, 1979, appear at 44 FR 31943, 3 CFR, 1979 Comp., 434, unless otherwise noted.

By the authority vested in me as President by Section 5317 of Title 5 of the United States Code it is hereby ordered as follows:

1-1. Executive Schedule Positions.

1-101. The following positions are placed in level IV of the Executive Schedule:

- (a) Counselor to the Secretary, Department of the Treasury.
- (b) Deputy Under Secretary for International Labor Affairs, Department of Labor.
- (c) Administrator, Alcohol, Drug Abuse and Mental Health Administration, Department of Health and Human Services.
- (d) [Deleted]
- (e) Executive Director, White House Conference on Aging, Department of Health and Human Services.
- (f) Deputy Adviser for Congressional Affairs, Council on Wage and Price Stability.¹
- (g) Deputy Adviser for Government Operations, Council on Wage and Price Stability.
- (h) Deputy Adviser for Regulatory Policies, Council on Wage and Price Stability.
- (i) Executive Secretary of the National Security Council.
- (j) Administrator, Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

[Sec. 1-101 amended by EO 12199 of Mar. 12, 1980, 45 FR 16441, 3 CFR, 1980 Comp., p. 227; EO 12234 of Sept. 3, 1980, 45 FR 58805, 3 CFR, 1980 Comp., p. 279; EO 12422 of May 20, 1983, 48 FR 23157, 3 CFR, 1983 Comp., p. 191; EO 12431 of July 8, 1983, 48 FR 31849, 3 CFR, 1983 Comp., p. 198; EO 12608 of Sept. 9, 1987, 52 FR 34617, 3 CFR, 1987 Comp., p. 245]

1-102. The following positions are placed in level V of the Executive Schedule:

- (a) Deputy Assistant Secretary of Defense for Reserve Affairs, Department of Defense.
- (b) Executive Director, Pension Benefit Guaranty Corporation, Department of Labor.
- (c) Executive Assistant and Counselor to the Secretary of Labor, Department of Labor.
- (d) Commissioner on Aging, Department of Health and Human Services.
- (e) Deputy Under Secretary for Education, Department of Education.
- (f) Deputy Under Secretary for Education, Department of Education.

¹ EDITORIAL NOTE: The Council on Wage and Price Stability was abolished by Executive Order 12234 of Jan. 29, 1981, 46 FR 10135, 3 CFR, 1981 Comp., p. 125.

Chapter 5—Federal Civilian Personnel

[Sec. 1-102 amended by EO 12237 of Sept. 3, 1980, 45 FR 58807, 3 CFR, 1980 Comp., p. 280; EO 12608 of Sept. 9, 1987, 52 FR 34617, 3 CFR, 1987 Comp., p. 245]

1-2. General Provisions.

1-201. Nothing in this Order shall be deemed to terminate or otherwise affect the appointment, or to require the reappointment, of any occupant of any position listed in Section 1-1 of this Order who was the occupant of that position immediately prior to the issuance of this Order.

1-202. Executive Order No. 12076, as amended, is hereby revoked.

Executive Order 12171—Exclusions from the Federal Labor-Management Relations Program

SOURCE: The provisions of Executive Order 12171 of Nov. 19, 1979, appear at 44 FR 66363, 3 CFR, 1979 Comp., p. 458, unless otherwise noted.

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b) of Title 5 of the United States Code, and in order to exempt certain agencies or subdivisions thereof from coverage of the Federal Labor-Management Relations Program, it is hereby ordered as follows:

1-1. Determinations.

1-101. The agencies or subdivisions thereof set forth in Section 1-2 of this Order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Chapter 71 of Title 5 of the United States Code cannot be applied to those agencies or subdivisions in a manner consistent with national security requirements and considerations. The agencies or subdivisions thereof set forth in Section 1-2 of this Order are hereby excluded from coverage under Chapter 71 of Title 5 of the United States Code.

1-102. Having determined that it is necessary in the interest of national security, the provisions of Chapter 71 of Title 5 of the United States Code are suspended with respect to any agency, installation, or activity listed in Section 1-3 of this Order. However, such suspension shall be applicable only to that portion of the agency, installation, or activity which is located outside the 50 States and the District of Columbia.

1-2. Exclusions.

1-201. The Information Security Oversight Office, General Services Administration.

1-202. The Federal Research Division, Research Services, the Library of Congress.

1-203. Agencies or subdivisions of the Department of the Treasury:

- (a) The U.S. Secret Service.
- (b) The U.S. Secret Service Uniformed Division.
- (c) The Office of Special Assistant to the Secretary (National Security).
- (d) The Office of Intelligence Support (OIS).
- (e) The Office of the Assistant Secretary (Enforcement and Operations) (OEO).

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(f) The Office of Criminal Enforcement, Bureau of Alcohol, Tobacco, and Firearms.

(g) The Office of Investigations, U.S. Customs Service.

(h) The Criminal Investigation Division, Internal Revenue Service.
1-204. Agencies or subdivisions of the Department of the Army, Department of Defense:

(a) Office of Assistant Chief of Staff for Intelligence.

(b) U.S. Army Intelligence and Security Command.

(c) U.S. Army Foreign Science and Technology Center.

(d) U.S. Army Intelligence Center and School.

(e) U.S. Army Missile Intelligence Agency.

(f) Foreign Intelligence Office, U.S. Army Missile Research and Development Command.

1-205. Agencies or subdivisions of the Department of the Navy, Department of Defense:

(a) Office of Naval Intelligence.

(b) Naval Intelligence Command Headquarters and Subordinate Commands.

(c) Headquarters, Naval Security Group Command.

(d) Naval Security Group Activities and Detachments.

(e) Fleet Intelligence Center, Europe and Atlantic (FICEURLANT).

(f) Fleet Intelligence Center, Pacific (FICPAC).

(g) Units composed primarily of employees engaged in the operation, repair, and/or maintenance of "off line" or "on line" cryptographic equipment.

(h) Units composed primarily of employees of naval telecommunications activities in positions which require a cryptographic authorization.

1-206. Agencies or subdivisions of the Department of the Air Force, Department of Defense:

(a) Office of Space Systems, Office of the Secretary of the Air Force.

(b) Office of Special Projects, Office of the Secretary of the Air Force.

(c) Engineering Office, Space and Missile Systems Organization (Air Force Systems Command).

(d) Program Control Office, Space and Missile Systems Organization (Air Force Systems Command).

(e) Detachment 3, Space and Missile Systems Organization (Air Force Systems Command).

(f) Defense Dissemination Systems Program Office, Space and Missile Systems Organization (Air Force Systems Command).

(g) Satellite Data System Program Office, Space and Missile Systems Organization (Air Force Systems Command).

(h) Project Office at El Segundo, California, Office of the Secretary of the Air Force.

(i) Project Office at Patrick Air Force Base, Florida, Office of the Secretary of the Air Force.

(j) Project Office at Fort Myer, Virginia, Office of the Secretary of the Air Force.

(k) Air Force Office of Special Investigations.

(l) U.S. Air Force Security Service.

(m) Foreign Technology Division, Air Force Systems Command, Wright-Patterson Air Force Base.

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(n) 1035 Technical Operations Group (Air Force Technical Applications Center), Air Force Systems Command, and subordinate units.

(o) 3480 Technical Training Wing, Air Training Command, Goodfellow Air Force Base, Texas.

(p) Office of the Assistant Chief of Staff, Intelligence.

(q) Air Force Intelligence Service.

Sec. 1-206 amended by EO 12338 of Jan. 11, 1982, 47 FR 1369, 3 CFR, 1982 Comp., p. 120

1-207. The Defense Intelligence Agency, Department of Defense.

1-208. The Defense Investigative Service, Department of Defense.

Sec. 1-209. Agencies or subdivisions of the Department of Justice. (a) The Office of Enforcement and the Office of Intelligence, including all domestic field offices and intelligence units, of the Drug Enforcement Administration.

(b) The Office of Special Operations, the Threat Analysis Group, the Enforcement Operations Division, the Witness Security Division and the Court Security Division in the Office of the Director and the Enforcement Division in Offices of the United States Marshals in the United States Marshals Service.

Sec. 1-209 amended by EO 12632 of Mar. 23, 1988, 53 FR 9852, 3 CFR, 1988 Comp., p. 360

1-210. Agencies or subdivisions of the Department of Energy.

(a) The Albuquerque, Nevada and Savannah River operations offices under the Under Secretary of Energy.

(b) Offices of the Assistant Secretary for Defense Programs.

Sec. 1-210 amended by EO 12338 of Jan. 11, 1982, 47 FR 1369, 3 CFR, 1982 Comp., p. 120

1-211. Offices within the Agency for International Development:

(a) The Immediate Office of the Auditor General.

(b) The Office of Inspections and Investigations.

(c) The Office of Security.

(d) The Office of the Area Auditor General/Washington.

1-212. Agencies or subdivisions under the operational jurisdiction of the Joint Chiefs of Staff (JCS).

(a) Intelligence Division (J-2), Headquarters Atlantic Command (LANTCOM).

(b) Atlantic Command Electronic Intelligence Center.

(c) Intelligence Directorate (J-2), Headquarters U.S. European Command (USEUCOM).

(d) Special Security Office (SSO), Headquarters U.S. European Command (USEUCOM).

(e) European Defense Analysis Center (EUDAC).

(f) Intelligence Directorate (J-2), Headquarters Pacific Command (PACOM).

(g) Intelligence Center Pacific (IPAC).

(h) Intelligence Directorate (J-2), Headquarters U.S. Southern Command (USSOUTHCOM).

(i) Intelligence Directorate (J-2), Headquarters U.S. Readiness Command (USREDCOM)/Joint Deployment Agency.

(j) Deputy Chief of Staff/Intelligence, Headquarters Strategic Air Command (SAC).

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- (k) 344th Strategic Intelligence Wing, Strategic Air Command (SAC).
- (l) Deputy Chief of Staff/Intelligence, Headquarters 15th Air Force, Strategic Air Command (SAC).
- (m) Deputy Chief of Staff/Intelligence, Headquarters 8th Air Force, Strategic Air Command (SAC).
- (n) Strategic Reconnaissance Center, Headquarters Strategic Air Command (SAC).
- (o) 6th Strategic Wing, Strategic Air Command (SAC).
- (p) 9th Strategic Reconnaissance Wing, Strategic Air Command (SAC).
- (q) 35th Strategic Reconnaissance Wing, Strategic Air Command (SAC).
- (r) 306th Strategic Wing, Strategic Air Command (SAC).
- (s) 376th Strategic Wing, Strategic Air Command (SAC).
- (t) Deputy Chief of Staff/Operations Plans, Headquarters Strategic Air Command (SAC).
- (u) The Joint Strategic Target Planning Staff (JSTPS).
- (v) The Joint Special Operations Command (JSOC).

[Sec. 1-212 added by EO 12338 of Jan. 11, 1982, 47 FR 1369, 3 CFR, 1982 Comp., p. 120; amended by EO 12410 of Mar. 28, 1983, 48 FR 13143, 3 CFR, 1983 Comp., p. 125]

1-213. The subdivisions of the Federal Aviation Administration, Department of Transportation:

- (a) Federal Air Marshal Branch, International Civil Aviation Security Division, Office of Civil Aviation Security.
- (b) Units composed of Civil Aviation Security Inspectors in Civil Aviation Security divisions whose responsibilities require Federal air marshal functions.

[Sec. 1-213 added by EO 12666 of Jan. 12, 1989, 54 FR 1921]

1-3. Units outside the 50 States and the District of Columbia.

1-301. The Drug Enforcement Administration, Department of Justice.

Executive Order 12177—Federal Government pension plans

Source: The provisions of Executive Order 12177 of Dec. 10, 1979, appear at 44 FR 71805, 3 CFR, 1979 Comp., p. 464, unless otherwise noted.

By the authority vested in me as President of the United States of America by Section 121(a)(1) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541, Public Law 95-595, 31 U.S.C. 68a), and Section 301 of Title 3 of the United States Code, and in order to provide consistency among the financial and actuarial statements of Federal Government pension plans, it is hereby ordered as follows:

1-101. All the functions vested in the President by Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a), are delegated to the Director of the Office of Management and Budget. The Director may, from time to time, designate other officers or agencies of the Federal Government to perform any or all of the functions hereby delegated to the Director, subject to such instructions, limitations, and directions as the Director deems appropriate.

1-102. The head of an Executive agency responsible for the administration of any Federal Government pension plan within the meaning of Section 123(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68c), except subsection (a)(9) and (b), shall ensure that the administrators of those plans comply with the form, manner, and time of filing as required by the Director of the Office of Management and Budget.

1-103. Subject to the provisions of Section 1-101 of this Order, and in the absence of any contrary delegation or direction by the Director, the Secretary of the Treasury, with respect to the development of the form and content of the annual reports, shall perform the functions set forth in Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a). In performing this function, the Secretary shall also be responsible for consulting with the Comptroller General.

Executive Order 12196—Occupational safety and health programs for Federal employees

Source: The provisions of Executive Order 12196 of Feb. 26, 1980, appear at 45 FR 12769, 3 CFR, 1980 Comp., p. 145, unless otherwise noted.

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7902(c) of Title 5 of the United States Code and in accord with Section 19 of the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 668), it is ordered:

1-1. Scope of this Order.

1-101. This order applies to all agencies of the Executive Branch except military personnel and uniquely military equipment, systems, and operations.

1-102. For the purposes of this order, the term "agency" means an Executive department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Federal government, other than those of the judicial and legislative branches. Since section 19 of the Occupational Safety and Health Act ("the Act") covers all Federal employees, however, the Secretary of Labor ("the Secretary") shall cooperate and consult with the heads of agencies in the legislative and judicial branches of the government to help them adopt safety and health programs.

1-2. Heads of Agencies.

1-201. The head of each agency shall:

(a) Furnish to employees places and conditions of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm.

(b) Operate an occupational safety and health program in accordance with the requirements of this order and basic program elements promulgated by the Secretary.

(c) Designate an agency official with sufficient authority to represent the interest and support of the agency head to be responsible for the management and administration of the agency occupational safety and health program.

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